

**AN ORDINANCE BY**

**COUNCILMEMBER C.T. MARTIN**

**AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE OF ORDINANCES TO ADD A NEW SECTION TO ADOPT AND CODIFY O.C.G.A. 25-5-1 ET SEQ., THE FIREFIGHTER'S MEDIATION ACT, "RESOLUTION OF WAGES, HOURS, WORKING CONDITIONS, ETC., OF FIREFIGHTERS"; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS,** City of Atlanta recognizes that public safety employees of this municipality can have representation by labor organizations of their choice; and

**WHEREAS,** the City of Atlanta recognizes the state of Georgia's public policy as indicated in O.C.G.A. 25-5-3 that municipal employees can be "represented by a labor organization of their choice" and can bargain "collectively concerning wages, rates of pay, and other terms and conditions of employment;" and

**WHEREAS,** Section 25-5-3 allows "any paid fire department of those municipalities which are covered by this chapter all of the privileges enumerated in subsection (a) of this Code section other than the right to strike or to engage in any work stoppage or slowdown" and provides for "a method of mediation of disputes;" and

**WHEREAS,** the state law does not provide for "compulsory mediation or arbitration as a superior method of settling labor disputes between employees who possess the right to strike and their employers but rather shall be deemed to be a recognition solely of the necessity to provide some alternative mode of settling disputes where employees are, as a matter of public policy, denied the right to strike."

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA** as follows:

**SECTION 1.**

That the governing body of the City of Atlanta adopts Chapter 5 cited as the Firefighters Mediation Act entitled "Resolution of Wages, Hours, Working Conditions, etc., of Firefighters" and pursuant to O.C.G.A. 25.5.1 et seq., the City Council of the City of Atlanta hereby declares that there is a need for a

recognition solely of the necessity to provide some alternative mode of settling disputes.

## **SECTION 2.**

That the governing body of the City of Atlanta adopts the following:

### **Section 1.**

#### **RESOLUTION OF WAGES, HOURS, WORKING CONDITIONS, ETC., OF FIREFIGHTERS**

This chapter shall be known and may be cited as the "Firefighter's Mediation Act."

### **Section 2.**

#### **Definitions.**

As used in this chapter, the term:

(1) "Corporate authorities" means the proper officials within any municipality whose duty it is to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of firefighters, as defined in paragraph (2) of this Code section, whether they are the mayor, city manager, city administrator, city council, board of aldermen, director of personnel, personnel board, or any combination thereof, or by whatever other name the same may be designated

(2) "Firefighter" means the permanent members of any paid fire department of any municipality of this state having a population of 20,000 or more according to the United States decennial census of 1980 or any future such census who are employed for and subject to fire-fighting duties.

### **Section 3.**

#### **Declaration of public policy.**

(a) The protection of the public health, safety, and welfare demands that the permanent members of any paid fire department of a municipality should not be accorded the right to strike or engage in any work stoppage or slowdown. This necessary prohibition, however, shall not prohibit such municipal employees from being represented by a labor organization of their choice and from bargaining collectively concerning wages, rates of pay, and other terms and conditions of employment.

(b) It is declared to be the public policy of this city to accord to the permanent members of any paid fire department all of the privileges enumerated in subsection (a) of this Code section other than the right to strike or to engage

in a superior method of settling labor disputes between employees who possess the right to strike and their employers, but rather shall be deemed to be a recognition solely of the necessity to provide some alternative mode of settling disputes where employees are, as a matter of public policy, denied the right to strike.

#### Section 4.

Right of firefighters to bargain collectively.

Firefighters shall have the right to bargain collectively with the City of Atlanta and to be represented by a labor organization in such collective bargaining as to wages, rates of pay, hours, working conditions, and all other terms and conditions of employment.

#### Section 5.

Selection of bargaining agent by firefighters; recognition by corporate authority.

The organization selected by vote of the majority of the firefighters in any fire department shall be recognized by the City of Atlanta, provided the organization does not advocate striking and has a "no strike" clause in its constitution and bylaws, as the sole and exclusive bargaining agent for all of the members of the fire department unless and until recognition of the labor organization is withdrawn by vote of a majority of the firefighters of the fire department. In lieu of an organization, a person may be selected as the bargaining agent and have the same obligations and privileges.

#### Section 6.

Obligation of corporate authority and agent to meet and confer in good faith; reduction of agreement to written contract; limitation as to duration of contract.

It shall be the obligation of the City of Atlanta and the bargaining agent to meet and confer in good faith within 30 days after receipt of a written notice from the bargaining agent of the request for a meeting for collective bargaining purposes. This obligation may include the duty to cause any agreement resulting from negotiations to be reduced to a written contract. No such contract shall exceed the term of one year.

#### Section 7.

Submission of unresolved issues to mediation.

If the bargaining agent and the corporate authorities are unable, within 30 days from and including the date of their first meeting, to reach an agreement on a contract, any and all unresolved issues shall be submitted to mediation.

#### Section 8.

Mediation board - Composition and selection; chairman.

Within five days from the expiration of the 30 day period referred to in O.C.G.A. Section 25-5-7, the bargaining agent and the City of Atlanta shall each select and name one mediator and shall immediately thereafter notify each other in writing of the name and address of the person so selected. The bargaining agent may name as its mediator a working firefighter who shall be an active member of the Professional Firefighters of Georgia; and the City of Atlanta may name as its mediator a member of the Georgia Municipal Association. The two mediators so selected and named shall, within ten days from and after the expiration of the five-day period mentioned in this Code section, agree upon the selection of a third mediator. If, on the expiration of the period allowed therefore, the mediators are unable to agree upon the selection of a third mediator, the American Arbitration Association shall select him upon request in writing from either the bargaining agent or the corporate authorities. The third mediator, whether selected as a result of agreement between the two mediators previously selected or selected by the American Arbitration Association, shall act as chairman of the mediation board.

#### Section 9.

Same - Time, notice, and conduct of hearings; transmittal of findings and opinion; effect of decision.

(a) The mediation board, acting through its chairman, shall call a hearing to be held within ten days after the date of the appointment of the chairman and, acting through its chairman, shall give at least seven days' notice in writing to each of the other two mediators, the bargaining agent, and the corporate authorities of the time and place of the hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the mediators may be received in evidence. The mediators shall have the power to request by subpoena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues presented to them for determination.

(b) Hearings conducted by the mediators shall be concluded within 20 days of the time of commencement. Within ten days after the conclusion of the hearings, the mediators shall make written findings and a written opinion upon the issues presented, a copy of which shall be mailed or otherwise transmitted to the bargaining agent or its attorney or other designated representative and the corporate authorities. A majority decision of the mediators shall be advisory in nature and shall not be binding upon either the bargaining agent or the corporate authorities.

#### Section 10.

Same - Factors to be considered in reaching decision.

The mediators shall conduct the hearing and render their decision upon the basis of a prompt, peaceful, and just settlement of wage or hour disputes between the firefighters and the corporate authority. The factors, among others, to be given weight by the mediators in arriving at a decision shall include:

- (1) A comparison of wages or hourly conditions of employment of the fire department in question with wage rates or hourly conditions of employment of fire departments in municipalities of comparable size;
- (2) The interest and welfare of the public; and
- (3) A comparison of the peculiarities of fire-fighting employment in regard to other trades or professions, specifically:
  - (A) The hazards of employment;
  - (B) The physical qualifications;
  - (C) The educational qualifications;
  - (D) The mental qualifications; and
  - (E) The job training and skills.

#### Section 11.

Payment of expenses of mediation.

The expenses incurred by the bargaining agent in connection with the mediation shall be borne by the bargaining agent. The expenses incurred by the City of Atlanta in connection with the mediation shall be borne by the city. The necessary expenses incurred by the third mediator shall be borne equally between the bargaining agent and the City of Atlanta.

#### Section 12.

Agreements constituting collective bargaining contracts; required provisions; engaging in work stoppages, etc., by firefighters.

Any agreement actually negotiated between the bargaining agent and the City of Atlanta either before or within 30 days after mediation shall constitute the collective bargaining contract governing firefighters and the City of Atlanta for the period stated therein. Such period shall not exceed one year.

Any collective bargaining agreement negotiated under this chapter shall specifically provide that the firefighters who are subject to its terms shall have no right to engage in any work stoppage, slowdown, or strike, the consideration for such provision being the right to a resolution of disputed questions. Whether or not a collective bargaining agreement has been negotiated, no firefighter shall engage in any work stoppage, slowdown, or strike at any time.

Section 13.

Service of notice of request for collective bargaining upon corporate authorities by bargaining agent.

Whenever wages, rates of pay, or any other matter requiring appropriation of money by the City of Atlanta are included as a matter of collective bargaining conducted under this chapter, it is the obligation of the bargaining agent to serve written notice of a request for collective bargaining on the corporate authorities at least 120 days before the last day on which money can be appropriated by the City of Atlanta to cover the contract period which is the subject of the collective bargaining procedure.

Section 14.

Applicability of chapter.

Before the City of Atlanta, a municipality with a population of 20,000 or more, and its firefighters may come under this chapter, the governing authority of the municipality must agree by ordinance that the municipality will be so covered.

SECTION 3.

That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4.

If any provision, clause, sentence or paragraph of this Code, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this Article which can be given effect without the invalid provisions or application and, to this end, the invalid provisions are hereby declared to be severable.

01-0-0749

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- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☒ PERSONAL PAPER REFER

Date Referred 5/7/01

Referred To: Public Safety

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee

Date

Chair

Referred to

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

☐ 2nd

☐ 1st & 2nd

☐ 3rd

Readings

☐ Consent ☐ V Vote ☐ FRC Vote

CERTIFIED

MAYOR'S ACTION